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TREASURY FOR FINCEN JILL BEZEK

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SUBJECT: SOUTH AFRICAN BANKS AND THE ANTI-MONEY LAUNDERING
REGIME

Classified By: Economic Counselor Perry Ball, reason 1.5 (b) and (d)

¶11. (C) Summary: South African banks have implemented extensive money-laundering controls since the Financial Intelligence Centre Act was passed in 2001. The major banks now employ large anti-money-laundering staffs and use sophisticated software to identify suspicious transactions. They also file thousands of suspicious transaction reports with the Financial Intelligence Centre (FIC) every year. FIC is growing and wants to strengthen its ties with FinCEN. However, capacity constraints in the police mean that few money laundering cases are prosecuted in court. End Summary.

The New Regime

¶12. (U) South African banks have implemented extensive money laundering controls since the Financial Intelligence Centre Act (FICA) was passed in 2001, according to local bankers. They met recently with visiting FinCEN Africa Regional Liaison Jill Bezak and Deputy Economic Counselor to discuss the impact of money laundering laws on banks and money-launderers alike.

¶13. (C) According to Stuart Grobler, general manager of the Banking Association of South Africa, the new anti-money laundering (AML) regime met with a positive response from the country's four major banks. "The banks collaborate on AML and share best practices," he said. Each bank has given AML training to its staff, set up large compliance offices virtually from scratch, and installed sophisticated software to detect suspicious transactions. "The cost has been enormous," he said, particularly the programs to reidentify and verify the addresses of millions of existing customers.

A Tale of Two Banks

¶14. (C) These points were echoed by Nadia Hoff, Group Money Laundering Control Officer at Standard Bank. She said that Standard employs 15 compliance officers in its central compliance office, plus at least one compliance officer in each of its main business units. In contrast, the bank had almost no AML staff only a few years ago. Standard is also enforcing "minimum AML standards" at its many branches and subsidiaries in Africa, even where local AML laws are weak or non-existent. According to Hoff, "Our minimum standards are based on FICA and FATF guidelines, but modified when necessary to fit local conditions (e.g., where local governments do not furnish ID documents to all citizens as happens in South Africa)." She said that some of Standard's African customers did resist AML controls at first, but Standard's concern for the reputation of its entire banking

group carried the day. "We didn't want those customers anyway," she laughed.

15. (C) Roy Melnick, Group Money Laundering Control Officer at ABSA bank, made similar points in a meeting with Deputy Economic Counselor in November 2007. Melnick said that FICA has had a "huge impact" on banks: "It touches every aspect of our business. Transactions are monitored, business relationships are affected, staff had to be trained." Melnick supervises a staff of 10 analysts who review suspicious transactions identified by ABSA staff or churned out by ABSA's transaction-monitoring software. "The software looks for transactions that don't fit a profile: huge sums going into the checking account of a factory worker, for example," he said. ABSA also employs a "risk-based" model to evaluate potential customers. The model looks at factors such as customer identity, type of business, and geographic scope of business. "If the model identifies trouble, we look into the matter to decide whether we want the customer," Melnick said.

Few Criminal Cases

16. (C) South Africa's new AML machinery now generates more than 21,000 suspicious transaction reports to the Financial Intelligence Centre (FIC) per year, the vast majority from banks. However, this flood of reports has yet to generate a comparable response from the criminal justice system. According to Grobler, only a handful of money-laundering cases have been prosecuted to date, almost all of them cases where prosecutors tacked the charge on to an indictment in order to beef up the underlying case. "These were cases

PRETORIA 00000677 002 OF 003

where the proceeds of crime simply flowed into a bank account," he said. "I'm not aware of a single 'traditional' case involving money truly laundered through our system, where it came in as one thing and left as something else." Grobler also said that he is aware of no "serious" estimate of the amount of money-laundering in South Africa. Big-time money-launderers would be wary of rand-denominated assets, he speculated, since the currency is so volatile. "It would be a real gamble."

17. (C) Hoff blamed the small number of cases on "capacity problems" in the police and prosecution services. She also noted that South African law enforcement has other priorities, such as murder and rape. "When the police come to us to ask about money laundering, they are usually responding to reports we filed four or five years ago," she claimed. She said that money-laundering is a "serious" problem in South Africa, often related to drug trafficking, but involving many other crimes as well. Based on his years at ABSA, Melnick said that money laundering usually involves fraud, corruption or white collar crime. Terror finance exists but is not a big problem so far.

Sanctions

18. (C) Melnick confirmed that the South African government promptly circulates the names of all persons listed on the UN 1267 list. He and Hoff said that persons designated by the U.S. as terrorists are subjected to the highest levels of bank scrutiny, whether or not the persons are also listed by the UN. "Anyone on the OFAC list would automatically be asked to take their business elsewhere," Melnick said. Hoff did not go this far. She confirmed, however, that Standard Bank would move anyone designated by the U.S. into a "high risk" category not eligible for additional credit, unless the person had been named in Cuba sanctions or other "peculiar" U.S. programs.

The View from FIC

¶9. (C) If AML is a growth industry, then FIC is the market leader. FIC Director Murray Michell told us that FIC now employs 130 staff and may grow to 250 in the near future. He hopes to open satellite offices in Durban and Cape Town, and to upgrade AML controls in non-bank institutions such as casinos. He would even like FIC to hire its own inspectors to carry out on-site examinations of firms. At the same time, Michell expressed frustration that the expanding apparatus of monitoring, reporting, and analysis has not resulted in more money-laundering prosecutions. "I'm not sure if the police even understand half of the financial intelligence we give them," he admitted. He predicted that this capacity problem would worsen when the elite Scorpions crime-fighting unit is merged into the regular police, as is currently planned. Note: FIC referred almost 550 suspicious transaction reports to police and/or intelligence agencies for follow up action between March 2006 and March 2007. Although official figures on the number of money-laundering cases are not published, observers believe that only a few go to court every year. End Note.

¶10. (C) Murray agreed that FIC and FinCEN should work to strengthen their relationship. He suggested reviving stalled MOU talks and organizing joint training workshops. Possible workshop topics could include strategic trend analysis and ways to improve coordination between financial intelligence units and law enforcement agencies.

The View from the Banks
QThe View from the Banks

¶11. (C) Relations between FIC and the banks are not always smooth, to judge by the comments of our banking contacts. They accused FIC of amending laws and issuing guidelines without consulting banks, of hoarding information on AML trends, of not offering feedback on suspicious transaction reports, and of disregarding the real costs and benefits of regulations. "FIC likes to prescribe and dictate," one said, adding, "Sometimes FIC acts as if we/we (the banks) are the ones who are laundering money." Another complained that top officials at FIC are often inaccessible to bank officers. Comment: These remarks struck us as relatively unexceptional complaints about regulation from a regulated industry. We do not think the relationship between FIC and the banks

PRETORIA 00000677 003 OF 003

undermines AML efforts in South Africa. End Comment.

Comment

¶12. (C) South Africa has taken important steps toward setting up a comprehensive AML regime almost from scratch and in a short period of time. Local banks and FIC take AML seriously. Working with FinCEN and other USG agencies, post will continue to engage on AML issues with FIC and concerned SAG departments, including the police and prosecution services.

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